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ABSTRACT

The guide is designed to inform college and university administration and governing boards about facts and issues concerning crime on campus so that they may develop policies and procedures for addressing it. After an introductory section that defines the trustees' role in managing institutional response to campus crime, Chapter 2 outlines specific issues in developing an overall institutional policy for managing crime risk: reporting criminal activity; security and access to campus facilities; campus security personnel; education; crisis response; statutory requirements; drugs and alcohol; sexual assault; tolerance; criminal actors; and crime victims. Chapter 3 discusses board oversight of the institutional response to crime in these areas: incidence of crime; statutory compliance; administrative responsiveness; internal discipline; security personnel; education; prevention and protection; cost-effectiveness of measures taken; and review of procedural effectiveness. Legally imposed institutional duties to respond to crime addressed in Chapter 4 include: common law issues (contracts, tort law, the principle "in loco parentis," the special relationship of school and student, negligence and foreseeability of crime) and specific statutory obligations. The final chapter presents a five-point plan for achieving reasonable campus security: education, prevention, protection,

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CAMPUS LIFE POLICY SERIES

POLICY GUIDELINES FOR BOARDS

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Crime on Campus

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BY PHILIP BURLING

CAMPUS LIFE
POLICY SERIES

POLICY GUIDELINES
FOR BOARDS

Crime on Campus

3

BY PHILIP BURLING

1993 Association of Governing Boards
of Universities and Colleges
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Foreword

Our campuses are not the safe havens they once were. The majority of campus crimes (roughly 80 percent) are committed by students, and most campus violence involves students as both victims and perpetrators. Some 95 percent of violent campus crimes involve alcohol and drugs. In urban areas, the dangers of the surrounding city often spill over onto the campus. Safety has become an increasing concern for students, parents, administrators, and governing boards.

Along with their efforts to secure the safety of the campus community, governing boards must be concerned specifically with many legal ramifications of crime on campus. This translates into a need to develop sound policies and to monitor their implementation regularly and carefully. This Special Report outlines trustees' responsibilities in addressing the issue of crime on campus, describes various approaches to campus security and safety, and summarizes the major legal requirements and considerations with which boards must be familiar.

Author Philip Burling says forthrightly that no campus can be made completely crime-free and that trustees must understand when the institution bears responsibility for campus safety concerns. He advocates a multifaceted approach that includes education, prevention, protection, crisis management, and insurance. But he also argues that governing boards must carefully weigh the costs and benefits of each of these strategies to determine the most appropriate mix for their institution. By asking the right questions and exploring appropriate options with their administrators, Burling notes, trustees can help create a reasonably safe campus without compromising its essential mission, the education of students.

In preparing *Crime on Campus*, Burling draws on extensive experience as university counsel, having served several institutions in that capacity. He is presently Boston College University Counsel and a member of the Boston law firm of Foley, Hoag & Eliot. He has written widely on the topic of campus crime.

The Association of Governing Boards is grateful to Philip Burling for lending his expertise to this difficult subject and suggesting useful, practical guidelines for trustees and chief executives. The Hitachi Foundation sponsored the Campus Life Policy Series, which includes three other titles: *AIDS and HIV, Alcohol and Drug Abuse,* and *Sexual Harassment and Date Rape.* AGB gratefully acknowledges the help of Delwin A. Roy and his colleagues at the foundation on behalf of the higher education community.

Richard T. Ingram
President, AGB
Washington, D.C.

Titles in the Campus Life Policy Series

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AIDS and HIV, by Richard P. Keeling, M.D.
Alcohol and Drug Abuse, by Thomas G. Goodale
Sexual Harrassment and Date Rape, by Bernice R. Sandler

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Philip Burling
Boston

Introduction

In 1986, Lehigh University freshman Jeanne Ann Clery was brutally murdered in her dormitory room during a robbery attempt by a fellow student. Having entered the building through several propped-open doors, the attacker slashed Clery's throat and raped, bit, and sodomized his victim before she died of strangulation. Clery's parents sued the university, which ultimately settled the case. The Clerys used the settlement award to fund a public crusade for campus safety. Within five years of Jeanne Ann's murder, their efforts have resulted in state and federal laws requiring colleges and universities to respond to crime on campus in radical new ways.

Though one of the most notorious campus attacks in United States history, Jeanne Ann Clery's murder is just one manifestation of a wave of crime—and crime-related lawsuits—that has swamped American higher education in recent years. Not all this activity can be attributed to a statistical rise in the number of crimes. New legislation, belated recognition of the seriousness of date rape, and a series of expensive court decisions have all contributed to a greater awareness of campus crime and a greater willingness to sue over it.

■ In the midst of a "hazing" ritual at the University of Delaware in 1980, sophomore pledge Jeffrey Furek suffered second-degree burns and permanent scarring when a fraternity member poured oven cleaner over his back and neck. Furek brought suit against the university and won nearly $30,000 at trial. Though the school ultimately succeeded in overturning the verdict, it spent eight years in court and thousands of dollars in legal fees defending the suit.[1]

■ In two recent lawsuits, a student and an employee of the University of Southern California sued the school after they were raped in or near their off-campus apartments. Juries in both cases found the university liable for failing to prevent dangerous conditions and failing to warn the women that their neighborhoods were unsafe. USC now faces over $3 million in damages.[2]

■ In summer 1990, four women students sued Carleton College alleging that the school failed to adequately discipline and restrain two male students with a history of sexual assaults. Some of the plaintiffs also charged the college with discouraging them from filing formal charges and neglecting to reassign dormitory rooms to separate victims from their attackers. As a result of these incidents, Carleton overhauled its policies on sexual assaults, divided investigative and adjudicatory

[1] *Furek v. University of Delaware*, 594 A.2d 506 (Del. 1990).

[2] *A Blueprint for Colleges on Dealing with Rape*, N.Y. Times, June 10, 1992, at B8.

functions within its internal disciplinary process, and paid out an undisclosed amount.[3]

■ In summer 1990, a series of murders riveted the nation's attention on the University of Florida at Gainesville. Within 48 hours, five university students, all women, were found dead in their off-campus apartments. The university, which had no authority to police the area in which the murders occurred, nonetheless shut itself down and sent its students home.[4]

Clearly, with or without civil liability attached, campus crime has become big news for college and university officials. The issue is one of particular concern for those entrusted with institutional oversight and policy setting. In a time of mounting social and legal pressures to assign blame, campus crime must have a place on the agenda of every governing board.

This report examines the responsibilities of college and university trustees with respect to crime on campus. It suggests ways a board of trustees can develop policies and measure the success of its risk-management program. The approach taken is largely practical, and a bibliography identifies useful sources for further information. A principal focus is on balancing costs and benefits in formulating policy. Keeping in mind the appropriate scope of trustee action, the report suggests vehicles for oversight and areas in which questions by trustees can help determine the effectiveness of an institutional plan for minimizing the risks of crime on campus.

[3]Maura Lerna, *Carleton Rape Suite is Settled*, Star Tribune, Nov. 1, 1991, at 1B.

[4]Scott Lindlaw, *Crime on Campus, Still a Menacing Problem*, UPI, Jan. 14, 1992, BC cycle, available in LEXIS, Nexis library, UPI File.

CHAPTER 1

The Trustees' Role in Managing the Institution's Response to Campus Crime

While it is widely agreed that the essential duties of trustees are the preservation of the properties and endowments of their institutions and the furtherance of their founders' educational ideals, it has only recently become apparent that carrying out those duties requires trustees to establish effective policies to manage institutional exposure to the risks of crime on campus. The response to campus crime requires trustee involvement for a simple reason. Potential exposure to damages is now such that the costs of insurance and loss-avoidance activities (education, prevention, and risk management) can become a significant portion of an annual budget. These rising costs may seriously affect the institution's ability to fund its traditional educational programs. Gone are the days when the safety of the campus was assured by a retired police officer who served as a night watchman, and the college's insurance was handled by the treasurer's secretary, whose husband was an insurance broker.

Moreover, in addition to the costs involved, federal and state statutes impose new obligations on institutions of higher education, and institutions that fail to comply with them risk serious enrollment erosion and the loss of some or all federal funding. Establishing policies for the management of the institutional response to campus crime has truly become part of the trustees' duty to preserve the assets of the institution and further the educational goals of its founders.[1]

In confronting the reality of increased crime and increased legal liability for its costs, it is useful to separate the types of response required into two categories. The first category includes strategies designed to reduce the incidence of crime and the second category includes tactics that make it less likely that victims will sue the institution.

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[1] As trustees confront this new duty to manage the risk of crime on campus, it is probably comforting to know that, personally, they are exposed to only the lowest risk of personal liability. Trustees of state institutions are generally covered by sovereign immunity or state tort claims acts, which usually exempt them from claims of this sort. A number of states have charitable immunity acts, which cover the trustees of state and independent institutions when they are acting in their capacities as trustees. See, e.g., Mass. Gen. L. Ann. ch. 231, §85W (West 1992) (exempting trustees of tax-exempt educational institutions from tort liability). In addition, most states permit institutions to indemnify trustees for claims arising from the conduct of their duties, which, when such bylaw provisions are funded by directors' and officers' insurance policies, provide near-total protection.

Unfortunately, just as the cost of *not* managing these risks can be staggering, so can the cost of managing them. A large university can spend literally hundreds of thousands of dollars keeping abreast of new laws, maintaining a security force, and installing safety devices. Yet, even with these precautions, no university will ever succeed in eradicating *all* crime from its campus. Since each dollar spent on reacting to crime is a dollar not spent on education or research, those overseeing the institution have to be able to weigh security-related expenses carefully to achieve the most protection for the best price. Moreover, they must be careful not to allow crime prevention measures to erode the academic freedoms of campus life. Governing boards, therefore, have a significant role to play in finding a safe path between the danger of liability and the cost of overreaction.

The main function of the governing board is setting policy. In the context of campus crime, therefore, the board is responsible for developing policies to create and foster a cost-effective risk-management program. Trustees need to balance the competing values of protection, prevention, and education, keeping the university's primary educational mission in focus at all times.

After setting policy, the board's second major task is to oversee compliance. Although administrators have the day-to-day task of implementing the programs, trustees have a duty to review how well these policies work in practice and whether they are being implemented effectively. Campus security forces, employees, internal disciplinary boards, resident assistants, groundskeepers, and others in the university community all play important roles in reducing the risk of crime. Through the administration, trustees should monitor the compliance of all these groups.

To carry out these fundamental duties, a trustee's primary tool is the well-considered request for information. "What does the law require?" "Is legislation pending that will alter our institution's duties?" "Is violent crime increasing or decreasing in the surrounding community?" "What kind of crimes might be going unreported on campus?" The right question at the right time can prevent an assault, head off a lawsuit, or open new possibilities for managing the risk of campus crime.

Board members can draw upon their own experiences in formulating effective questions, but in most cases, they will need to expand their understanding as well. Relatively few trustees will have much personal experience with crime prevention and risk management. Thus, this is an area where effective trustees will seek out information and expertise before making decisions.

At its best, a governing board will be as much concerned with identifying the new, both problematic and promising, as it is with preserving the old. Board members should never overlook this maxim, particularly as they move to respond to the latest threat of institutional liability. One of the reasons that "campus crime" is currently such a hot topic may well be that governing boards did not perceive that campus crime was important enough to require board intervention.

CHAPTER 2

Developing an Overall Policy for Managing the Risk of Campus Crime

A proper response to campus crime requires, first of all, a sense of perspective. For all the horror of million-dollar lawsuits and tabloid headlines, a college is ultimately in the business of education, not security. Political and economic pressure to make the campus a safe haven for the larger community should never be allowed to overshadow the primary mission of education. In most instances, an education institution is only a corporate citizen and not a municipality. As such, it is entitled to the protection of municipal law-enforcement forces. Thus, while trustees have a duty to be sure their institutions are addressing the risks of crime and institutional liability, they also need to ensure that the costs of managing those risks do not absorb an excessive amount of the overall budget and that they do not unwittingly assume burdens that more properly belong with municipal authorities.

No campus, especially an urban one, could afford to make itself completely safe, no matter how much money it threw at the problem of campus crime. Moreover, even if resources were limitless, a crime-free campus would approach a police state, in which students' freedom was severely restricted. In the last analysis, absolute safety would be as undesirable as it would be impractical. Instead, "reasonable safety" should be the institutional goal.

This sense of limitation should be conveyed forthrightly to all members of the college or university community. An education institution should never offer — or even seem to offer — more safety than it can actually provide. Lulling students and employees into a false sense of security tends to make them easier targets for criminals and simultaneously exposes institutions to expensive misrepresentation claims. A student or employee who relies on assurances of safety may have a good cause of action against the institution. For this reason, trustees must resist the marketeer's temptation to be less than candid about the safety of their institution, though they can be appropriately proud when their institution has a good security system and a lower incidence of crime than the local community.

The case of *Donnell v. California Western School of Law*,[1] provides a striking example of the dilemma facing governing boards. In that case, a student was mugged while leaving a law library one night and sued California Western for its failure to

[1] 246 Cal.Rptr. 199, 206 (Cal.App. 4 Dist. 1988).

light and patrol a city sidewalk adjacent to the school. Rejecting the student's claim, the court stressed that law students are adults and that the property in question did not belong to the school. However, the court went on to remark that,

> With respect to the question of moral blame, it is perhaps an indictment of our litigation-minded society that a law school repeatedly rejected its employees' and students' requests for increased lighting and other security measures in the face of known risk of criminal assault because of nominal expense and the danger the school would be assuming liability if lights were installed.[2]

Such disapproval, though a nonbinding observation in this case, is the stuff from which later liability decisions sometimes flow. The trustee's duty, then, is to help administrators keep sight of the moral and legal imperatives and balance them when they seem to compete.

As a first step, the board should formulate an overarching policy, such as, "The university seeks to provide its community members with the most effective mix of crime prevention and protection available to it as an educational institution and a citizen of Collegetown." Such a statement conveys both the institution's aspirations and a sense of limitation. The board should never make sweeping pronouncements such as, "The institution maintains a crime-free campus for its members"— a fiscal and physical impossibility.

One of the best ways to balance fiscal responsibility and crime prevention in such a policy is to insist on the use of cost-benefit analyses when considering expenditures for crime-management programs. A college makes an economic choice when it decides between competing safety measures or between safety measures and other programmatic spending, and this decision should be as informed as possible. For example, hiring extra security personnel may reduce crime, but a better use of resources might be the operation of a night-time shuttle service, which may cost less but serve more potentially at-risk persons. A new high-tech alarm system may look wonderful on paper, but could prove less effective than an older system that students cannot disable in their efforts to circumvent whatever slight inconvenience it causes them.

To complement this type of analysis, the board should consider commissioning a study of the security measures best suited for the institution's needs. Development of a truly responsive crime-management program requires an understanding of the given institution's unique characteristics and the tools available to it. A group composed of campus community members and/or outside consultants can be asked to evaluate the risks of crime on campus and determine costs for appropriate responses of different types. Newly mandated federal statistical reports may provide real data not previously available for the analysis, as will review of the security policies of other institutions, which must now be made public under these acts.

[2] *Id.*, at 206.

All of the board's policies and the administration's actions will involve the intersection of three closely related techniques: education, protection, and prevention. Despite their affinity, the three constantly compete with one another for funds and attention. Moreover, different groups and institutions vary in their ability to use these techniques. In practice, an effective program for managing the risk of crime on campus will embody all three, drawing from the combined talents of such groups as administrators, resident assistants, campus security forces, and legal counsel. Each group will have a say in determining the overall package, although the final decision on the mix of education, protection, and prevention will be the administration's alone.

At present, there are few absolutely mandatory policies that an institution must promulgate on campus crime. However, there are a number of policies that an educational institution is required to publish, if it has them, and these requirements are a useful catalog for trustees wondering about the adequacy of their institution's risk-management programs. Trustees should ask the administration whether the institution has policies such as the following:[3]

- **Reporting Criminal Activity**: The institution specifically encourages its community members to report criminal actions and other emergencies occurring on campus to the proper authorities, and it attempts to facilitate this reporting process. The institution commits itself to respond promptly to reports of criminal activity and, when appropriate, alert potential victims of danger.
- **Security and Access to Campus Facilities**: Classrooms, residences, and other buildings are to be designed, maintained, and supervised with security in mind.
- **Campus Security Personnel**: Campus police are adequately trained and supervised. The institution has developed appropriate manuals of procedure, including clear policies on firearms use and use of physical force. The institution seeks to have an effective working relationship with state and local police agencies, sharing information and expertise as required.
- **Education**: The institution develops programs for students and staff informing them of campus security procedures and encouraging them to be responsible for their own security and the security of others. The institution also instructs students and employees in crime prevention measures they can take on their own to reduce their exposure to crime. The institution attempts to include all members of its community in these educational programs.
- **Crisis Response**: The institution has a Crisis Management Team ready to respond to security emergencies.
- **Statutory Requirements**: The institution is committed to fulfilling its duties under federal and state law to report on campus crimes. The institution monitors criminal activity occurring at recognized off-campus student organizations. The

[3]This list is developed in part from the statutory reporting requirements of the Crime Awareness and Campus Security Act of 1990, 20 U.S.C. 1092.

institution is also committed to meeting its statutory obligations with respect to illegal activities of its students and staff.

■ **Drugs and Alcohol**: While not a police agency, the institution will respond to violations of drug and alcohol laws by students and staff. It also will provide information or programs on drug and alcohol abuse for its community members. [For information about substance-abuse programs and policies, see the companion Special Report in this series, *Alcohol and Drug Abuse*, by Thomas G. Goodale.]

■ **Sexual Assault**: Recognizing the threat of stranger-rape and acquaintance-rape, the institution commits itself to educating all its students, both male and female, in the causes and prevention of sexual assaults. The institution will comply with all legal requirements on the dissemination of information and provision of services to rape victims. [*Sexual Harassment and Date Rape*, by Bernice R. Sandler, another companion volume, contains valuable information on these topics.]

■ **Tolerance**: All students and staff are full members of the campus community and deserve to be treated as such. The institution condemns racism, sexism, homophobia, and other forms of bigotry. To respond to the threat of intolerance, it offers educational programs, internal disciplinary procedures, and appropriate protective measures.

■ **Criminal Actors**: The institution will respond to campus crimes committed by members of its community through internal discipline or, where appropriate, referral to outside law-enforcement agencies. Internal disciplinary procedures will respect the privacy and procedural rights of alleged criminal actors. (Private institutions are usually measured by different legal standards in this area than public ones, although many have policies similar to those of public institutions.)

■ **Crime Victims**: Persons who are victims of crime will be treated with care and concern by the institution and will have access to professional counseling, if necessary. The institution will attempt to treat all persons as equals when providing services to victims of crime and will respect legitimate privacy concerns. The institution will help victims of crime file charges with appropriate state and local law-enforcement agencies. In cases of student-on-student violence, the institution will attempt to prevent unnecessary contact between accuser and accused.

In formulating policy, the board need not spell out the specific programs it requires of the administration. Trustees clearly overstep their fiduciary role when they begin to manage the administration, and they threaten to waste both their own time and that of the administration. Of course, the board should tell the administration that, at a minimum, it expects the implementation of all legally mandated procedures—for instance, those found in the Campus Victims of Sexual Assaults Act, as well as those set forth in laws such as the Crime Awareness and Campus Security Act.[4]

[4]Crime Awareness and Campus Security Act of 1990, 20 U.S.C. 1092; Campus Sexual Assault Victims' Bill of Rights Act of 1991, 20 U.S.C. 1092 (f), as amended by the Higher Education Amendments of 1992 (S.1150).

CHAPTER 3

Board Oversight of the Institutional Response to Crime on Campus

Without interfering in day-to-day operations, the board needs to have a way to find out whether its crime protection policies actually work on campus. Oversight of the effectiveness of and administrative compliance with board policies is just as important as establishing realistic and effective policies in the first place. Not all institutions have provided for this sort of oversight of the implementation of board policies, but those that do find the process worthwhile. To be effective, however, oversight needs to be assigned to a visiting committee or a similar investigative subgroup of the full board, and the trustees assigned to evaluate campus security need to be relatively well informed.

While individual members of the subcommittee will have particular areas of expertise, all should have some acquaintance with background law, crime conditions in the surrounding community, and the state of national campus-security developments. Most important, the subcommittee should have sufficient familiarity with the institution's policies to ask intelligent questions and understand the answers. From this background, it can report findings back to the entire board and make suggestions when changes in policy seem warranted.

As in formulating policy, the subcommittee or the board as a whole can call upon staff or outside assistance when conducting compliance reviews. For example, the board may ask the administration to designate the university counsel to report on legal developments. In times of transition, or in the absence of knowledge on the board, trustees should call upon consultants to help determine compliance.

After studying the issues and shoring up its knowledge, but before actually beginning the compliance review, the visiting committee should develop an agenda of items for discussion and action. Without a clear vision of what it hopes to accomplish, the committee will face a topic so large that it risks scattering its energies ineffectively. A broad agenda, but not an exhaustive one, helps the board focus systematic attention on the most important issues facing the institution.

A list of questions the visiting committee might put to the administration could include the following:

■ **Incidence of Crime**: Has the number of violent crimes on campus and in the surrounding community increased or decreased since the last compliance review?

Have students and staff been informed about significant crime trends in neighboring communities?

- **Statutory Compliance**: How is the institution responding to its obligations under state antihazing statutes, campus crime acts, and other legal requirements?
- **Administrative Responsiveness**: What steps has the administration taken since the last compliance review to implement the policies formulated by the board? For example, what steps have been taken in response to the board's policy on assisting the victims of campus crime? If the institution has a victim-assistance program, is its staff qualified?
- **Internal Discipline**: How does the institution's disciplinary board deal with criminal acts? Who sits on this board? What sort of procedural protections does it offer to alleged criminal actors? How is it decided that charges of criminal activity are referred to civil authorities?
- **Security Personnel**: How are members of the campus security force trained? Do they carry weapons on campus, and is there an established policy on the use and storage of these weapons? Is there a policy on the use of force, and does it appropriately reflect the diversity of the campus population?
- **Education**: Is the institution incorporating its legal reporting requirements into its educational program, or is it simply complying with the letter of the law? How is the administration attempting to involve faculty members and security personnel in the development of its anticrime educational program?
- **Prevention and Protection**: Does the responsible senior administrator have a full grasp of available options? Does the institution run night-time shuttles? Has it installed direct-access telephones on campus paths? Are students involved in foot patrols or other security measures? Does the institution offer self-defense classes to students and staff?
- **Cost-Effectiveness**: Where has the administration channeled recent expenditures? Has the administration considered alternatives to its current mix of services and security measures? Is too much money being spent on protection, for example, and not enough on preventing crimes in the first place?
- **Zero-Basis Review**: Has the administration moved to reduce or eliminate funding for ineffective security measures?

Recognizing that it is not their role to manage directly, the trustees should feel comfortable in asking the questions that will satisfy them that the institution is moving to fulfill its legal obligations and maintain a reasonably safe campus.

The board should schedule its oversight reviews on a regular basis. This approach embodies the essence of proactive trusteeship, seeking out problems and solutions rather than waiting for a crisis to develop. When all is going well, major oversight should not be necessary more frequently than once every third or fourth year. If it perceives problems, however, the board should conduct its reviews more frequently.

Finally, the board should document the outcome of each compliance review. A written record will help the process become more comprehensive over time and will document board attention to the topic of campus crime. Conversely, a paper trail creates evidence of problems perceived to exist, and the board can expect to be held to a duty to address trouble spots reasonably soon after it identifies them. Development of an action agenda and reports on progress toward its completion are evidence of compliance with that duty. By delegating responsibility and setting deadlines, the board can make genuine progress in reducing the risk of institutional liability.

CHAPTER 4

An Institution's Legally Imposed Duties to Respond to Campus Crime

In general, a university or college has an obligation to maintain a reasonably safe campus for use by students, staff, faculty, and visitors. An education institution is legally bound to inform its constituents about crime conditions on campus and to alert them to take special precautions when a crisis develops. In a smaller number of situations, a college or university also has a duty to take active steps to protect persons dependent on the institution from the risk of foreseeable criminal acts, regardless of whether these may be committed by members of the campus community. This duty may arise out of statements by the institution or simply from a general expectation among the public that colleges and universities should take care of their own constituents.

A complete discussion of legal obligations and possible responses would be far too voluminous for this report. What follows is a summary for board members to use while developing policies and conducting compliance reviews.[1]

A. Common Law

Absent special conditions, Anglo-American courts generally refuse to shift the cost of crime from victims to third parties. For such a transfer to occur, a victim/plaintiff must prove: (1) the university owed a duty to the plaintiff, (2) the university breached that duty, (3) the plaintiff was injured, and, (4) if the university had not acted or failed to act as it did, the plaintiff would not have been injured.

The essential part of this analysis is whether the university owes a duty to the plaintiff. Courts determine this by looking for a contract creating the duty, a set of facts creating a duty under tort law, or a statute obligating the institution to protect the victim.

1. Contract: After becoming victims of crime, many students and employees have sued their education institutions on the theory that the university or college breached its contractual duty to prevent crime and protect victims. In some states, for example, courts have held that an education institution forms an express or implied contract to provide security measures when it provides housing or sends a prospective

[1] For a more extensive discussion of these issues, see Philip Burling, *Crime on Campus: Analyzing and Managing the Increasing Risk of Institutional Liability* (National Association of College and University Attorneys, 1990).

student a brochure detailing security policy. When the institution relaxes these measures or fails to implement them, a court may impose liability for crimes resulting from that breach. This type of liability can be managed by careful review of institutional publications and by published disclaimers of institutional ability to provide protection from specific risks.[2]

2. Tort Law: Tort is a general area of law encompassing personal injury and negligence. Over time, courts have taken different approaches to determine whether a college or university has a duty in tort to protect potential victims of crime. Local standards will vary from state to state.

a) *In Loco Parentis*: Prior to the 1960s, courts generally held that an education institution stood in the position of a parent to its students. This doctrine, known as *in loco parentis*, lost favor because the parental analogy did not fit well when institutions sought to treat college-age students as children. Courts gradually abandoned this model as the pressures of the late 1960s led to general acceptance of the notion that college student were adults.[3]

b) Special Relationship: Most education institutions acknowledge a commitment to the welfare and safety of their students. By voluntarily providing security, a college assumes and reinforces the existence of a "special relationship" with its students, upon which the latter may reasonably rely.[4] Pointing to this relationship, courts in some states will find education institutions liable when they fail to take action to protect their students. Ostensibly, instead of acting in the broad role of parent, the college or university is expected only to use "reasonable care" to protect its interest in the safety and well-being of its students. In practice, however, it can be difficult to distinguish this standard from the older doctrine of *in loco parentis*.[5]

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[2] Compare *Mullins v. Pine Manor College*, 389 Mass. 47, 53-54 (1983) (security services were an "indispensable part of the bundle of services" offered to students), with *Baldwin v. Zoradi*, 176 Cal. Rptr. 809, 821 (Cal.App. 1981) (since "the breach of a license agreement by one student imposes no contractual duty on the trustees in regard to another student," university was not liable for damages due to student drinking and driving). See also *Savannah College of Art & Design, Inc.* 409 S.E.2d 848, 849 (Ga. 1991) (college was not liable for rape in dormitory because housing policy agreement did not express "plainly and explicitly" a willingness to undertake to protect student dormitory residents).

[3] See, e.g., *Van Mastrigt v. Delta Tau Delta*, 573 A.2d 1128, 1131 (Pa.Super. 1990) (university not liable for failure to protect student from consequences of his own actions in murdering fellow student). An additional reason for abandonment of *in loco parentis* as the definition of a college's duty may have been the tendency to include all members of an institutional community (i.e., students, faculty, and staff) within the same analytical framework.

[4] A "special relationship" has been defined as "some definite relation between the parties, of such a character that social policy justifies the imposition of a duty to act." W. Keeton, *Prosser and Keeton on the Law of Torts*, §56 at 374 (5th ed. 1984). For a particularly good discussion of the "special relationship" theory, see *University of Denver v. Whitlock*, 744 p.2d 54 (Colo.1987) (university not liable for injuries sustained when student used trampoline while drunk).

[5] See, e.g., *Mullins v. Pine Manor College*, 389 Mass. 47, 449 N.E.2d 331 (1983) (college liable for rape of student in dormitory). But see, *Klobuchar v. Purdue University*, 553 N.E.2d 169 (Ind.App. 4

c) **"Unbundling"**: Another approach used by some state courts is to focus on the service or activity provided by the education institution at the time and place a crime occurred. Under this approach, an academic institution may be analogous to a landlord when it provides dormitory services, to a place of public entertainment when it hosts athletic events, or even to a common carrier when it operates an elevator (placing the institution in the legal company of railroad lines and ferry boats).[6] Unfortunately, while this type of unbundling works up to a point, it does not address all situations appropriately. In effect, the court treats the college or university as if it were an aggregation of different businesses, rather than a single institution with an educational mission.

d) "Dependency": In other states, courts have held that education institutions have a duty to persons who are dependent on them, requiring colleges and universities to provide protection from the risk of foreseeable criminal acts.[7] The determination of when an individual or class of individuals is "dependent" involves both factual and policy considerations. A finding of dependency is affected by the extent to which individuals are given adequate information to reach a mature judgment on the degree of risk in view of the institution's ability to provide protection. It seems likely that most courts could find a special relationship based on dependency when a student is within a laboratory or a classroom. At the same time, however, a student who is fully aware that the institution cannot always prevent dormitory residents from propping open exterior doors is not dependent on the college when making a judgment whether to leave an otherwise protective dorm-room door unlocked at night.

Dependency analysis, which is thought by some to be a developing consensus,[8] holds at least one significant advantage for education institutions.

Dist. 1990) (university did not have special duty to protect student from criminal attack by her husband in university parking lot); *Crow v. State*, 271 Cal.Rptr. 349 (Cal.App.3 Dist. 1990) (plaintiff's status as student did not impose special duty on university to protect him from assault by fellow student during beer party).

[6] *Peterson v. San Francisco Community College District*, 685 P.2d 1193 (Cal. 1984) (college was in landlord business-invitee relationship with student attacked in stairway surrounded by untrimmed foliage); *Duarte v. State*, 151 Cal.Rptr. 727 (Cal.App. 1 1979) (university was in landlord-tenant relationship with student raped in her residence hall); *Houck v. University of Washington*, 803 P.2d 47, 50 (Wash.App. 1991) (university was common carrier in regard to operation of elevator in which student was injured). Courts sometimes apply the "unbundling" approach to suits brought by campus visitors. Compare *Bearman v. University of Notre Dame*, 453 N.E.2d 1196 (Ind.App. 3 Dist. 1983) (university was in landlord business-invitee relationship with nonstudent attending football game on campus) with *Figueroa v. Evangelical Covenant Church*, 879 F.2d 1427 (7th Cir. 1989) (college which owned parking lot used by day-care center patrons was not liable to nonstudent patron attacked in parking lot by third parties).

[7] See, e.g. *University of Denver v. Whitlock*, 744 P.2d 54 (Colo. 1987) (plaintiff was not dependent on university in deciding whether to use a trampoline when drunk).

[8] See Restatement (Second) of Torts §314A (comment b) (1965).

Using this standard, colleges and universities can devise strategies to identify situations in which students are dependent and to distinguish between students based on reasonably objective criteria, such as age and maturity.

3. Negligence and Foreseeability: Having determined that a duty in tort exists, a court reviewing a plaintiff's claim must determine the reasonable foreseeability of the risk of injury. By definition, a criminal act that could not have been foreseen could not have been prevented, even by an institution having a duty of care. In that situation, courts will not shift the loss to a college or university that had no ability to prevent the injury from happening. Understandably, the only cure for unforeseeable crimes is insurance.

In some circumstances, foreseeability has totally eclipsed the other parts of the common-law negligence formula, becoming the "touchstone of university liability for criminal victimization of students."[9] Unsurprisingly, this particular portion of the liability formula is prone to subjective interpretation, especially since a court is an after-the-fact observer of conduct that, by definition, is unacceptable. Nonetheless, the analysis can become quite mechanical, so that, to some courts, a crime might be called "foreseeable" only if a similar crime had occurred on campus within the past five years.[10]

B. Statutory Obligations

In response to the national increase in campus crime, both the federal government and the states have passed statutes imposing significant new duties and liabilities upon education institutions. Campus crime statutes encompass everything from assault to rape to drug and alcohol abuse. Some impose civil or criminal fines upon individuals and institutions that violate their provisions by permitting crime to occur. Others punish noncompliance by cutting off federal funding. All have the potential to be used against the university by plaintiffs alleging negligence or breach of contract.

As with tort law, trustees need not have read every pending bill, but they should realize that statutory obligations exist and may change over time. The board should periodically ask the administration what programs and policies it has developed in response to the institution's statutory duties and how it monitors changes in the law. The following may serve as a preliminary checklist for compliance reviews and the trustees' own knowledge:

1. The Student Right-to-Know and Crime Awareness Act: The Crime Awareness and Campus Security Act of 1990 requires colleges and universities receiving

[9]Note, "The Liability and Responsibility of Institutions of Higher Education for the On-Campus Victimization of Students," 16 *Journal of College and University Law* 119, 123 (1989).

[10]See, e.g., *Relyea v. State*, 385 S.2d 1378 (Fla App. 1980) (7 years); *Brown v. North Carolina Wesleyan College, Inc.*, 309 S.E.2d 701 (N.C. App. 1983).

federal funds to publish and distribute yearly campus crime reports to students, employees, and prospective students.[11] These reports must include statements of the institution's security policies (if any) in the following areas: crime reporting, campus security-force training, facilities maintenance, and monitoring criminal activity at off-campus affiliated institutions. The law also requires publication of statistics from the past three years on a variety of campus crimes. All "incidents" of murder, sexual offense, robbery, aggravated assault, burglary, and automobile theft reported to local police agencies or "campus security authorities" must be reported. The institution also must publish the number of arrests for violations of liquor, drug, and weapons possessions laws. As a further provision, institutions covered by the act must issue "timely" reports and warnings when they learn that students or employees are in danger of being victimized by crime.

The Crime Awareness Act is largely a result of the campaign launched by Jeanne Clery's parents after her death in 1986, and it follows the enactment of similar laws in individual states such as Pennsylvania.[12] These states may impose slightly different requirements on education institutions.

Crime-awareness acts pose both challenges and opportunities for education institutions. Noncompliance with the federal act could result in loss of all federal funding, and failure to meet the timely reporting requirements might bar an institution from raising a defense such as contributory negligence at trial. Additionally, it will be expensive to produce and distribute the reports required by crime-awareness legislation. On the other hand, these acts mandate the publication of reports that, if well done, will alert students and employees to potential dangers and simultaneously provide institutions with a strong argument that they have not misled anyone about the level of security available on campus. The accuracy of the statistics is important because these acts could give rise to fraud claims, if the numbers of crimes were intentionally incorrect. Trustees should investigate institutional compliance with the requirements of these acts in their compliance reviews and the institution's larger crime-awareness program.

2. **"Drug Free" Acts**: Because student use of drugs and alcohol often plays a critical role in campus crime for both victims and perpetrators, two recent federal laws require education institutions to participate in "The War On Drugs" as a condition of continued receipt of federal funds. Colleges stand to lose all federal funding should they fail to adopt and implement satisfactory programs to prevent the illegal use of drugs or alcohol on campus.

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[11] 20 U.S.C. 1092 (1990).

[12] Pennsylvania's statute, enacted in 1988, is titled the College and University Security Act. 24 Pa. Cons. Stat. Ann. §2502 (Purdon 1989). It imposes up to a $10,000 fine for failure to comply with its provisions. *Id.*, at §2502-5. Other states with campus crime-information acts include Connecticut, Delaware, Florida, and Louisiana.

The Drug-Free Schools Act deals with student use of illegal drugs.[13] Among other things, the act requires institutions to impose disciplinary sanctions against substance abusers "consistent with" state and federal criminal sanctions for the same conduct.

The second recent federal statute regulating drug use is the Drug-Free Workplace Act of 1988,[14] which affects colleges with respect to federally funded programs greater than $25,000, such as government-sponsored faculty-research projects. The act requires colleges to inform employees working on such projects (e.g., faculty, research assistants, and students) that illegal drug use is prohibited in the workplace, and that such illegal use may result in the violator losing his or her job or grant.

Additionally, college employees working on federally funded projects must report to the employer any convictions for drug use in the workplace, and the college must impose a sanction or require rehabilitation in the wake of such convictions. Finally, the college or university must report employee drug convictions to the federal agency that has funded the project.

3. Campus Sexual Assault Victims' Bill of Rights: Researchers estimate that one in four university women will have been the victim of some type of sexual assault by the time she graduates. As the First District Court of Appeals of California recently commented in the case of *Tanja H. v. Regents of the University of California*, 278 Cal.Rptr. 918, 921 (Cal.App. 1 Dist. 1991):

> As campuses have . . . moved away from their former role as semi-monastic environments subject to intensive regulation of student lives by college authorities, they have become microcosms of society; and unfortunately, sexually degrading conduct or violence in general—and violence against women in particular—are all too common within society at large.

Responding to this violence (and, once again, to the efforts of Jeanne Clery's parents after her murder), Congress recently passed the Campus Sexual Assault Victims' Bill of Rights Act.[15] The act requires colleges and universities receiving federal funds to develop policies on the treatment of rape victims and to offer programs for their benefit. The penalty for failure to comply with the Sexual Assault Victims' Bill of Rights Act is a potential loss of federal funding, rather than a private right of action.

Among the provisions of the Campus Sexual Assault Victims' Bill of Rights Act, institutions of higher education are now required to develop written policies for the investigation of sexual assaults. Such policies must provide equal access to legal

[13]The Drug-Free Schools and Communities Amendments of 1989 to the Higher Education Act of 1965, 20 U.S.C. §1145g.

[14]41 U.S.C. §§701-707.

[15]20 U.S.C. 1092(f) (1991), as amended by the Higher Education Amendments of 1992 (S.1150).

assistance for victims and accused and state that victims are not somehow "responsible" for the commission of crimes against them. Colleges and universities also must offer programs aimed at the prevention of sex offenses and the establishment of procedures to be followed when such crimes occur. They must provide the accuser with the same procedural and privacy rights afforded the accused during campus disciplinary proceedings. Victims must be informed of available legal sanctions, as well as the availability of counseling and services on campus and in the surrounding community. Moreover, universities and colleges must inform victims of their options to change academic and living situations subsequent to an alleged assault.

4. **State Antihazing Laws**: In addition to the fear of tort damages from date rapes, beer blasts, and house pranks, colleges with fraternities and sororities now have an additional source of liability to contend with in state antihazing laws. Currently, half the states have laws that seek to limit abusive treatment of pledges, and some of these laws do not even require physical contact for a crime to have occurred. Most antihazing laws treat failure to prevent hazing as a misdemeanor, but some states will prosecute severe cases of such conduct as a felony.

Antihazing statutes concentrate most directly on actual participants in hazing incidents, but they also frequently impose liability on third parties, notably university officials and employees who fail to prevent or report hazings or fail to take disciplinary action in response to hazing incidents.[16]

5. **Criminal Law and Procedural Requirements**: Many colleges and universities have their own internal disciplinary procedures, and trustees can appropriately consider the interaction of these procedures and the criminal justice system. Most significantly, if they attend state-run schools, student offenders appearing before disciplinary boards have a constitutional right to certain procedural safeguards. Institutions also may be limited in the types of offenses to which they can respond. For example, the First Amendment may limit the ability of institutions receiving federal funds to respond to hate speech. Finally, colleges and universities should know when to refer cases to civil authorities and let matters be prosecuted under criminal codes. Trustees should be aware that internal discipline is not just a question of self-control but of law.

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[16] See generally Darryl M. Halcomb Lewis, "The Criminalization of Fraternity, Non-Fraternity and Non-Collegiate Hazing," 61 *Mississippi Law Journal* 111 (1991). Examples cited by Lewis include Ala. Code §16-1-23 (1975 & Supp. 1990) (criminal liability for failure to report a hazing); N.C. Gen. Stat. §14-36 (1986 & Supp. 1990) (violation to not expel a student determined to have hazed); Ohio Rev. Code Ann. §2307.44 (Anderson 1987 & Supp. 1989) (violation to not prevent hazing).

CHAPTER 5
Achieving Reasonable Campus Security: A Five-Point Plan

Part of the challenge of responding to campus crime is simply knowing where to look. Patterns of crime in the surrounding community invariably spill over onto campuses, as few colleges or universities can afford to create a buffer zone from the outside world. Moreover, the Gainesville murders and the USC rape cases demonstrate how the "campus" often extends beyond university boundaries. Yet these cases, spectacular as they are, should not obscure the overall nature of campus crime. Both the USC and Gainesville incidents are atypical, not only by virtue of occurring off-campus, but also by their cast of characters.

The great majority of campus crimes are committed by students, and most campus violence involves students as both victims and perpetrators. Surveys indicate that roughly 80 percent of campus crimes are committed by students, and approximately 95 percent of violent campus crimes involve alcohol and drugs.[1] Statistics show that athletes and fraternity members are disproportionately linked with campus crime; but assault, petty theft, and even murder can come from almost any direction. Moreover, while student criminals tend to be less violent than nonstudents, gay-bashing incidents and Jeanne Clery's gruesome murder prove that this is not always so. Any institutional response to campus crime should, therefore, first focus on student behavior and then seek to alter the conduct both of potential criminals and potential victims.

At the outset of an effort to develop a response to campus crime, trustees should realize that there is no "right answer" to how much or what kind of security a campus should have. American colleges and universities are too diverse not only in terms of size and location but also in terms of applicable law and vulnerability to crime to claim that there is one universal formula. Moreover, as suggested earlier, too much security may be nearly as bad as leaving students to fend for themselves.

That said, there is a large body of materials to draw upon in fashioning an institutional response to campus crime. Over the past 20 years, many colleges and universities have developed formal policies and procedures to manage the campus-crime risk. What follows is a synthesis of those programs and the growing literature on providing reasonable security.

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[1] "Alcohol Linked to Campus Crime," *Baltimore Sun*, Jan. 12, 1991, at 9; *Campus Violence Survey*, Student Services Office, Towson State University, 1986 & 1987.

Trustees addressing security threats, both internal and external, should emphasize five basic components in a comprehensive security plan: (1) education, (2) prevention, (3) protection, (4) crisis management, and (5) insurance. Each of these components is discussed briefly below. As a general rule, education is the most cost effective, with prevention a distant second, but in some instances, insurance may prove to be a more effective solution than any of the other components.[2]

1. Education

Perhaps the most important aspect of campus security—and certainly the most cost-effective one—is teaching all members of the college community how to maximize safety. Since education is their stock-in-trade, colleges and universities should be well qualified to initiate effective programs in this area.

Unfortunately, however, professional educators and students themselves are often left out of the conceptualization and design of an institution's program of safety instruction. Responsibility for campus safety is not the sole province of police and security personnel; it requires the cooperation of everyone affiliated with the institution. Accordingly, trustees should ask whether the administration is consulting the university's full range of resources when deciding how to educate the campus community on the subject of campus crime.

In fostering an educational program, trustees should ask the administration whether it has considered the difficulty of getting the message of safety out to people who prefer not to listen. Students are notorious for the inventiveness of their attempts, and the regularity of their success, at sabotaging security programs and devices designed to protect them. Nevertheless, institutions must promote increased safety consciousness, particularly for entering students. A college can use any of a multitude of approaches, including pamphlets, freshman orientation programs, residence staff meetings, posters and flyers, informational videos, a "police report" column in the campus newspaper, and organized group discussions on unsafe behavior. Administrators should be as innovative as possible in deciding how to educate the campus community, keeping in mind that what works on one campus may not be effective on another.

Examples of specific areas institutions have emphasized in security-awareness programs include the following:

■ **Basic Security Risks and Procedures**: Students and staff often mistake the ivory tower for a guarded fortress or an absolute haven from the "real world." To counteract this tendency to lower one's guard, colleges and universities have sponsored educational programs reinforcing basic security measures. Students should be encouraged to travel in groups and on well-lit paths at night, to lock dormitory

[2]The author is indebted to the National Association of College and University Attorneys and the American Council on Education for permission to use parts of their publications, *Crime on Campus* and *Achieving Reasonable Campus Security*, in this section.

rooms, to remain aware of their surroundings, to report suspicious behavior, and to know who to contact in the event of an emergency. While these security measures may appear obvious, they often need to be repeated to students in the unfamiliar setting of a college campus, especially since many of them are away from home for the first time. Students need to know where to get help in an emergency. One way is to provide them with a "stick on" list, to be attached to their telephones, of emergency telephone numbers and other information on who to contact for assistance in the event of a crime.

■ **Prior Incident Information**: Colleges and universities need to consider how to incorporate their new and existing statutory crime-reporting duties into their larger educational programs and how to alert students and staff to dangers on campus and in the surrounding community. Such reports require accurate record keeping on the kinds, frequency, dates, times, and locations of criminal incidents. In turn, this information needs to be made available to students and staff members as quickly as necessary.

■ **Drug and Alcohol Education**: The exuberance and experimentation of many students exhibit a dark side in the abuse of alcohol and other drugs. While many colleges and universities already inform their students and staff about the physiological and psychological risks of substance abuse, they also need to stress the strong link between alcohol, drugs, and violent crime. As mentioned earlier, national surveys indicate that students who abuse alcohol are much more likely to commit or suffer violent crimes than those who remain sober. Fights, sexual assaults, and reckless accidents all demonstrate how behavior that at first seems merely "irresponsible" can quickly become criminally dangerous. [Additional information on this topic appears in the companion volume, *Alcohol and Drug Abuse*, by Thomas G. Goodale.]

■ **Student-Police Relations**: Cooperation between students and police is essential to an effective risk-management program, but educational programming frequently overlooks the relation between these groups. Students need to learn that the security staff is on campus to protect them, rather than restrict them. Security personnel should be encouraged to be friendly and accessible to the students. Police presentations to dormitories and student groups are one effective way to incorporate the goals of education and good student-police relations. Police training needs to include diversity awareness as a major component.

■ **Acquaintance Rape**: Recent national media attention paid to acquaintance rape and date rape underscores the need to promote student awareness of this type of sexual assault. All students should know of the existence, definition, and magnitude of the problem. Educational programs should address the causes of acquaintance rape and suggest security measures to prevent assaults from occurring. Specially tailored programs can target at-risk groups and potential assailants. As an additional measure, the institution's counselors and security personnel should be educated in the proper response to this type of sexual assault. [Again, a companion volume,

Sexual Harassment and Date Rape, by Bernice R. Sandler, contains valuable information.]

■ **Tolerance Programs**: Despite their reputation for open-mindedness, colleges and universities are by no means immune from racism, sexism, homophobia, and other forms of bigotry found in the outside world. By word and deed, some students and staff members will try to force others out of the campus community because of who they are. Even resident assistants and administrators can become victims when they seek to head off or react to this sort of behavior. In response, colleges and universities should seek to educate their communities about bigotry and take a strong stand against intolerance. Once again, special programs targeted at potential victims and attackers may be appropriate.

■ **Subgroups**: Specific subgroups of the campus community, such as commuting students, resident students, and night-staff employees, may have their own particular security and informational needs. In its focus on typical student concerns, the institution should not overlook these groups.

2. Prevention

Next to an educational program, one of the most effective ways for colleges and universities to reduce the risk of on-campus crime is to establish a prevention system and implement it at appropriate levels throughout the institution.

Prevention should be "built in" to any discussion of access to the campus, maintenance of the facilities and grounds, and the design of new buildings. While the equipment and options available to education institutions may be quite sophisticated, the most effective preventative measures often will turn out to be relatively simple and inexpensive, if prevention is addressed early enough in a design phase. Peepholes in doors, for example, may ultimately provide much more security than an intercom system; these are cheap, if installed during construction of the doors. By raising the issue of security at the right time and by setting appropriate policies, trustees can help ensure that crime strikes less frequently on campus.

Governing board members should require, first of all, that campus grounds are designed and maintained with security in mind. Institutions can take a number of simple and relatively inexpensive steps to reduce the potential for outdoor crime. Trustees should ask the administration whether the institution has installed and serviced effective lighting in open areas, such as pathways between libraries, dormitories, and parking lots. Trees and shrubs near building entrances and shuttle stops should be pruned back to eliminate potential hiding places. Emergency phones also may help the morale of the campus community and frighten off potential criminals.

College campuses are seldom closed off to the outside world, but the same need not apply to campus buildings. In general, institutions should control access to campus buildings by nonstudents and students alike. Master keys must be closely accounted for at all times. The number of entranceways and exits should be reduced at night, since channeling pedestrian traffic provides security in numbers and the

opportunity for increased supervision. Additionally, chaining or double-locking doorways not required as exits at night decreases the potential for propped-open doors, a common entryway for criminals. Indeed, given how frequently heavy doors are propped open, trustees should be aware that apparently "secure" entrances may really be just the opposite.

Prevention can be designed into structures, so trustees should promulgate a policy that the institution will incorporate security concerns into the design of all new and renovated dormitories and campus facilities. Again, this does not necessarily entail great expense or unusual efforts. Instead, it means that designers will be expected to think about threats from within and outside the community before they begin design and construction. For instance, ground-floor dormitory rooms can be avoided, and lecture halls can be designed with secure side or rear entrances in case a speaker has to be escorted away from a hostile crowd. Simple accommodations such as these can prevent costly criminal conduct in the future.

Within existing student residences, the institution's individual needs and preferences will determine how closely it restricts student and nonstudent access. One common approach is to create a "two barrier" or even "three barrier" locking system in residence halls. Such systems involve locks at entranceways from the street, in elevators, and on individual rooms, providing multiple barriers to unauthorized entry. Preventive steps also can include the following options for preventing dormitory crimes:

- Replacing first-barrier locks with a push-button, number combination locking system. This may reduce student incentive to prop open doors to avoid carrying dorm keys.
- Installing a free phone line or buzzer outside each housing unit, again reducing the incentive for students to prop open exterior doors.
- Placing delayed alarms on all exterior doors, so that propped-open doors sound a signal in the campus security office after a designated number of seconds elapses. Such a system reduces the chance that students will cut alarm wires.
- Installing peep holes on all individual room doors.
- Making single-sex dormitories available to all students who request them and restricting visitation by members of the opposite sex in single-sex dorms.
- Reception desks at the entrance of each student housing building to monitor access, either at all times or only at night.
- Installing silent alarms on all fire doors and installing effective locks, security screens, security bars, or other similar devices on all windows accessible to intruders.
- Replacing keys with card-access systems that allow for easy deactivation of lost cards, rather than replacement of locks.

Despite the allure of high tech, such as card-access systems, trustees and administrators should not be overwhelmed by fancy equipment when upgrading dormitory security systems. As suggested earlier, the essential question for the institution is how effective a product or service will be when used on campus *by students* (who often

don't want to be protected). Thus, the extent to which students and others can sabotage and disable a high-tech system should be an important consideration.

3. Protection

Although education and preventive measures should be their crime-fighting weapons of choice, colleges and universities also need to provide physical protection for their students and staff. Appropriate security equipment and personnel are essential, and trustees should make certain that their institutions have protection when preventive measures inevitably fail.

An education institution's security force is its last line of defense against criminal acts. Nationwide, these forces are nearly as varied as colleges and universities themselves. Small rural institutions often rely on a few security officers, while larger institutions may have security teams rivaling municipal police forces. Both types of security forces require guidelines for their training and the scope of their responsibilities.

Larger colleges and universities most often maintain a security force of uniformed officers. The particular needs of a campus will determine the size, scope, and constitution of the security staff, but all institutions face certain basic issues of which trustees should be aware. Trustees should ask the administration to what extent the local police force is involved in matters of campus crime and safety, whether security would be better if management was contracted out to a professional security force, or whether the campus safety force has police powers, such as the authority to arrest.

Whether an institution decides to contract for police services or hire its own security force, it needs to develop training and supervisory procedures. The institution or its contractor should screen, train, equip, and supervise security officers adequately, offering recruits basic training and more specialized instruction focusing on the specific needs of the campus.

A formal agreement with the local police department may be advisable to clarify the respective jurisdictions of each security force and the circumstances in which they are to assist one another, particularly if the institution's security forces do not have the authority to make criminal arrests.

If campus security officers are authorized to carry guns or chemical deterrents, the institution must have and enforce strict guidelines for the availability, use, and storage of these weapons.

The board should be aware whenever students play an active role in protecting the institution and its members from crime. Many colleges and universities use their own students for general campus security or supervision of undergraduate housing. Though not professionals, these students are an integral part of the campus security system and should be trained and supervised accordingly. Students on foot patrol, for example, should report to responsible members of the security department. When undergraduates are the sole supervisory presence in student housing, they should be upperclassmen in good academic standing and should be screened for maturity and judgment.

In addition to hiring and posting guards, education institutions can offer protection from assault through escort and shuttle services, routine "dormitory sweeps" by staff and students, and closed-circuit monitors. Emergency phones, rape whistles, and panic alarms are other, relatively inexpensive, security measures. Trustees should ask the administration whether it has considered any of these options.

4. Crisis Management

No matter how good the campus security program, campus crimes will occur. Therefore, trustees should insist that the institution be prepared to manage incidents when they arise. Every college and university should establish a procedure for the prompt and effective management of security emergencies and crisis situations. A well-thought-out program will include significant training and will be responsive to community reactions.

As a first step, trustees should ask the administration whether it has assembled a Crisis Management Team to oversee and implement the institution's response to security emergencies. Formed well before a crisis actually strikes, this team should include representatives from the campus departments that are most critical during an emergency situation, including security, counseling, legal, public relations, student services, and senior administration. The Crisis Management Team should meet periodically to prepare response procedures, rehearse with life-like scenarios, and review responsibilities. Additionally, the institution should establish a communications system ensuring that the team can be assembled and operate even when the daily campus routine is disrupted.

In addition to inquiring into the Crisis Management Team, the board should ask whether the administration has developed a set of protocols outlining responses to specific events, such as violent crimes, bomb scares, and disasters. Staff members, including resident advisers, should be trained to handle known types of crises and to follow written procedures.

An essential element in reducing the risk of crime-related loss is deflecting blame from the institution. The institution should designate, in advance, an appropriate, high-level administrator for dealing with crime victims and their families, as well as a *single* spokesperson to control the flow of information to the campus community, the public, and the media. Finally, the institution should ensure that appropriate procedures and channels of communication are in place so that campus police can respond adequately and promptly to a criminal incident.

Another key to avoiding a lawsuit after an incident of crime is support for the victim. The trustees should determine, before the fact, that the administration has well-planned strategies to do this. Trained counselors should be available to care for the victim right away, and university representatives should contact family members as soon as possible. In the wake of the crime, the student (or employee) may need assistance with administrative matters, such as class and work schedules, examinations, and tuition payments. Additionally, the victim may need continuing personal

and academic support to ease the process of reintegrating into the campus community. The institution should be responsive to these needs and arrange for the victim and other affected individuals (such as roommates) to receive ongoing counseling if they desire.

In addition to caring for immediate victims, a college or university has an obligation to the larger campus community after crime strikes. The institution should prepare information releases about the incident that strike a balance between the privacy concerns of the victim and the desire to alert the community. Staff members and administrators should be aware that a crime affects many more people than its immediate victims and that the campus community may need guidance and support of some kind. In the meantime, though, the institution should ensure that general campus security is maintained despite the focus of attention on the crisis.

Finally, trustees should prod the administration to develop policies and procedures for the institution's own internal purposes after a crisis. The administration should conduct a professional investigation of the incident, including an internal audit to detect signs of negligence. A reevaluation of the institution's security plan may help determine whether the incident was reasonably preventable and, if so, what measures should be taken to improve the plan. The institution should coordinate all responses to the incident in conjunction with legal counsel, and a strategy should be prepared in the event of a lawsuit.

5. Insurance

As certainly as campus crime will occur, education institutions occasionally will have to bear the costs of those crimes. Unexpected costs are sure to arise, whether in the form of property repairs, an award of damages in a tort suit, or a settlement payment to an injured student or staff member. Accordingly, the board should inquire as to whether the institution has insurance coverage for damages, defense costs, and emergency repair costs arising from criminal acts. The insurance carrier itself may have suggestions on how to reduce exposure to liability (and reduce premiums, as well).

Conclusion

With the increasing risk of campus crime and crime-related lawsuits, governing boards of colleges and universities face a host of new duties and responsibilities. Effective trustees will respond by committing their institutions to the provision of cost-effective risk management that meets or exceeds legal requirements. Since this response requires advance knowledge and preparation, every governing board should make certain that an appropriate subcommittee is charged with the oversight of the institution's response to campus crime. This charge includes formulation of policies and regular oversight.

Ultimately, the board's advice will guide the administration in creating a mix of education, prevention, and protection fine-tuned to the institution's particular needs. By asking questions and remaining involved, the board can help the institution create a reasonably safe campus without losing sight of its essential purpose—the education of its students.

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About the Author

Philip Burling is Boston College University Counsel and a member of the Boston law firm of Foley, Hoag & Eliot, where he specializes in college and university law. He has published widely on the topic of campus crime for the American Council on Education, the National Association of College and University Attorneys, and the *Education Law Reporter.* Mr. Burling has also represented Berklee School of Music, Regis College, Suffolk University, and Williams College. He is a director of the National Association of College and University Attorneys and president of the board of trustees of the Artisans School.

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